



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 17 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7647 3200
RETURN RECEIPT REQUESTED

Mr. Mark Barker
Office Manager
Johns Manville
814 Richmond Avenue
Richmond, Indiana 47374

Re: Notice of Violation/No Further Action
Compliance Evaluation Inspection
EPA I.D. No.: IND006065601

Dear Barker:

On June 14, 2016 a representative of the U.S. Environmental Protection Agency inspected the Johns Manville facility located in Richmond, Indiana (JM). As a large quantity generator of hazardous waste, JM is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (RCRA). The purpose of the inspection was to evaluate JM's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by JM, EPA's review of records pertaining to JM, and the inspector's observations, EPA has determined that JM has unlawfully stored hazardous waste without a permit or interim status as a result of JM's failure to comply with certain conditions for a permit exemption under 40 C.F.R. §§ 262.34(a)-(c), which are incorporated by reference into the Indiana Administrative Code at 329 IAC 3.1-7-1. EPA has identified the permit exemption conditions with which JM was out of compliance at the time of the inspection in paragraphs 1 and 2 below.

Many of the conditions for a RCRA permit exemption are also independent requirements that apply to permitted and interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste (TSD requirements). When a hazardous waste generator loses its permit exemption due to a failure to comply with an exemption condition incorporated 40 C.F.R. Part 265, which is incorporated by reference into the Indiana Administrative Code at 329 IAC 3.1-10-1, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement. The exemption condition identified in paragraph 2 is also an independent TSD requirement incorporated from 40 C.F.R.

Part 265. Accordingly, each failure of JM to comply with this condition is also a violation of the corresponding requirement in 40 C.F.R. Part 265 (if the facility should have fully complied with the requirements for interim status), or 40 C.F.R. Part 264, which is incorporated by reference into the Indiana Administrative Code at 329 IAC 3.1-9-1 (if the facility should have been permitted).

Finally, EPA has determined that JM violated RCRA requirements regarding the storage of universal waste, as described in paragraph 3, below.

STORAGE OF HAZARDOUS WASTE WITHOUT A PERMIT OR INTERIM STATUS AND VIOLATIONS OF TSD REQUIREMENTS

At the time of the inspection, JM was out of compliance with the following large quantity generator permit exemption conditions:

1. Date When Each Period of Accumulation Begins

Under 329 IAC 3.1-7-1 [40 C.F.R. § 262.34(a)(2)], a large quantity generator must clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins.

At the time of the inspection, three 55-gallon containers of chromium toxicity characteristic waste were in storage in the hazardous waste storage area. The containers were marked with accumulation start dates of March 6 through 8, 2016, respectively. Each date corresponded to a time greater than 90 days before the date of the inspection (i.e., June 14, 2016). However, after the inspection, on June 17, 2016, JM informed U.S. EPA that these dates were inaccurate, as the waste in the containers were generated during demolition activities on April 5 through 7, 2016. JM suggested that the marked accumulation dates were from a previous use of the three containers.

Therefore, the three containers were not marked with the date upon each period of accumulation began.

The permit exemption condition identified below in paragraph 2 is also an independent TSD requirement violated by JM.

2. Contingency Plan Content

Under 329 IAC 3.1-7-1 and 3.1-10-1 [40 C.F.R. § 262.34(a)(4) and 265.52(d)], a large quantity generator must have a written contingency plan, which includes, among other things, the home addresses of those qualified to act as emergency coordinator. At the time of the inspection, JM's contingency plan did not include the home addresses of the emergency coordinator.

Summary: By failing to comply with the conditions for a permit exemption, above, JM became an operator of a hazardous waste storage facility, and was required to obtain an Indiana hazardous waste storage permit. JM failed to apply for such a permit. JM's failure to apply for and obtain a hazardous waste storage permit violated the requirements of 329 IAC 3.1-13-1 and 3.1-13-3(a) and (d) [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)]. Any failure to comply with a permit exemption condition incorporated from 329 IAC 3.1-10-1 [40 C.F.R. Part 265] is also an independent violation of the corresponding TSD requirement.

OTHER VIOLATIONS

JM violated the following universal waste handler requirement.

3. Universal Waste Accumulation Time

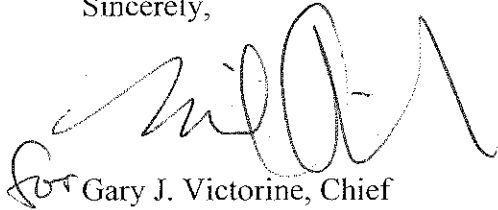
The Standards for Universal Waste Management of 40 C.F.R. Part 273 are incorporated by reference into the Indiana Administrative Code at 329 IAC 3.1-16-1. Under 40 C.F.R. §§ 273.15 and 273.35, both large and small quantity handlers of universal waste may accumulate universal waste for no longer than one year from the date the waste is generated, or received from another handler, unless the requirements of 273.15(b) or 273.35(b) are met.

At the time of the inspection, one 5-gallon bucket of universal waste – mercury containing equipment located near the Used Oil and Oil Filter Storage Area was marked with an accumulation start date of, April 1, 2015, which is greater than one year before the date of the inspection (i.e., June 14, 2016.)

At this time, EPA is not requiring JM to apply for an Indiana hazardous waste storage permit. After the inspection, as documented in an email correspondence to EPA, JM took certain actions to establish compliance with the above conditions and requirements. Based on the information received from JM on June 17, 2016, EPA is not planning additional enforcement actions based on this inspection at this time. This letter does not limit the applicability of the requirements evaluated, or of other federal or state statutes or regulations. EPA appreciates JM's cooperation.

If you have any questions regarding this letter, please contact Todd Brown, of my staff, at (312) 886-6091, or at brown.todd@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Victorine", with a stylized flourish at the end.

Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Nancy Johnston, Indiana Department of Environmental Management
(njohnsto@idem.in.gov)